IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

ADVANCED TACTICAL ORDNANCE SYSTEMS, LLC *an Indiana Limited Liability Company (d/b/a PepperBall Technologies)*	)	**No. 1:12-CV-296-JVB-RBC**
Plaintiff,	)	
vs.	)	
REAL ACTION PAINTBALL, INC, *a California Corporation*, APON INDUSTRIES CORP., *a California Corporation*, APON INTERNATIONAL GROUP, Inc, *a California Corporation*, K.T. TRAN, *individually*, CONRAD SUN, *individually*, John Does 1-5	)	
Defendant.	)	

MOTION FOR A PRELIMINARY INJUNCTION

Now comes Plaintiff, ADVANCED TACTICAL ORDNANCE SYSTEMS, LLC (herein "ATO"), by and through its attorneys, the law firms of Milton M. Blumenthal & Associates and Snyder & Morgan, and pursuant to Local Rule 65-1(a) moves this Court to enter a preliminary injunction against each of the Defendants for the reasons set forth in the brief that was filed along with Plaintiff's motion for a Temporary Restraining Order. (*See* Doc. 5.) The preliminary injunction the Plaintiff moves this Court to enter is virtually identical to the Temporary Restraining Order previously entered, and would enjoin the Defendants, and their principals, officers, agents, servants, employees, attorneys and affiliated companies or enterprises, and all persons in active concert or participation with them who receive actual notice of this order by personal service or otherwise, pending the entry of a final order or judgment on the merits in this case from:

(a) manufacturing, shipping, selling or otherwise disposing of, or advertising or offering for sale projectiles filled with irritant causing powder, or any other substance designed to force compliance;

(b) destroying, modifying, moving or disposing of any molds, tools or equipment for manufacturing said projectiles, or any business or personal records relating or referring to manufacture, sale, purchase, receipt, delivery or transfer of the projectiles;

(c) making or having made or causing or permitting to be made or used any more molds for the manufacture of the projectiles filled with irritant causing powder, or any other substance designed to force compliance, or setting up or authorizing or assisting the manufacture of such projectiles by any third party;

(d) advertising, displaying or distributing products, literature or any other materials bearing the word PepperBall;

(e) shipping, selling or filling orders for PepperBall® projectiles with any projectiles other than genuine projectiles made by and obtained from Advanced Tactical Ordnance Systems, LLC;

(f) making any false statements, directly or indirectly, concerning Advanced Tactical Ordnance Systems, LLC, PepperBall Technologies, Inc, or Phoenix International, LLC, to any customers or potential customers of Advanced Tactical Ordnance Systems, LLC or PepperBall Technologies, Inc; or disparaging the good name and business reputation of Advanced Tactical Ordnance Systems, LLC and/or PepperBall Technologies, Inc.;

(g) making any false statements, directly or indirectly, concerning the availability of authentic PepperBall® projectiles from Advanced Tactical Ordnance Systems, LLC and PepperBall® Technologies.

The one difference with respect to the relief granted in the Temporary Restraining Order is that the proposed preliminary injunction requires the Defendants to immediately forward to Advanced Tactical Ordnance Systems, LLC, 2713 Ferguson Road, Fort Wayne, IN 46809, any orders they have received or may receive in the future for projectiles filled with irritant causing substance. This will help mitigate the damage done by the Defendants' e-mail(s), press releases, website, and other communications in which the Defendants have either expressly stated or implied that they are the only source for PepperBall® projectiles.

The order would also require the Defendants to continue segregating and preserving their inventory of projectiles and powder, and would permit Advanced Tactical Ordnance Systems, LLC or its designated representatives to inspect and inventory, all projectiles filled with irritant causing substance, all molds for making the all projectiles filled with irritant causing substance, and all other articles, literature, documents and materials used for making, advertising, selling or distributing the projectiles filled with irritant causing substance, which are in the possession, custody or control of Defendants or their principals, officers, agents, servants, employees, attorneys or affiliated companies or enterprises. The order would also keep in place the shortened the period for responding to discovery.

One other change to the proposed order is with respect to service of the order. All of the Defendants have appeared. The order provides that it shall bind the Defendants immediately upon entry and that no further service is required. With respect to individuals or entities that are discovered to be violating the order, the order allows for service of the preliminary injunction in the same manner the Temporary Restraining Order was served.

Advanced Tactical Ordnance Systems, LLC

By: /s/ Michael L. Blumenthal
One of his attorneys

ATTORNEYS FOR ADVANCED TACTICAL ORDNANCE SYSTEMS, LLC
SNYDER MORGAN LLP
STEPHEN R. SNYDER
200 West Main Street
Syracuse, IN 46567
(574) 457-3300
(574) 457-2056 (fax)
srs@snydermorgan.com

in association with

MILTON M. BLUMENTHAL & ASSOCIATES
MICHAEL L. BLUMENTHAL, ESQ.
105 W. Madison St., Suite 1004
Chicago, Illinois 60602
(312) 372-3566
(312) 372-3573 (fax)
mike@mmblumenthal.com

Proof of Service

The undersigned, one of the attorneys for the Plaintiff, being first duly sworn under oath, deposes and states that this motion was served on all parties to this litigation concurrent with the filing of this motion on CM/ECF.

By: /s/ Michael L. Blumenthal

ATTORNEYS FOR ADVANCED TACTICAL ORDNANCE SYSTEMS, LLC
SNYDER MORGAN LLP
STEPHEN R. SNYDER
200 West Main Street
Syracuse, IN 46567
(574) 457-3300
(574) 457-2056 (fax)
srs@snydermorgan.com

in association with

MILTON M. BLUMENTHAL & ASSOCIATES
MICHAEL L. BLUMENTHAL, ESQ.
105 W. Madison St., Suite 1004
Chicago, Illinois 60602
(312) 372-3566
(312) 372-3573 (fax)
mike@mmblumenthal.com